IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SIXTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 13827 of 2004

Between:

Smt. G. Adivamma W/o G. Tippanna,51 years,
Mazdoor, Telephone Exchange, IEEJA (M) Mahaboob Nagar District

..... PETITIONER

AND

1. The General Manager, Tele Communications, BSNL. Mahaboobnagar District
2. The Sub Divisional Officer (Groups) Telecom, Gadwal, Mahaboobnagar District-125
3 The Junior Telecom Officer, IEEJA, Gadwal, Mahaboobnagar District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus, or any other appropriate Writ, Order or direction, declaring the action of the respondents in preventing the petitioner from attending her duties without any valid reasons as highly arbitrary, illegal and violative of Articles 14, 16 and 21 of the Constitution of India apart from violative of principles of Natural Justice and set-aside the retirement orders allegedly issued by the respondents vide pro. No. E1-60/Vol-V/CMs/GMTD-MBN/2003-04/11, dt 13-5-2003 (which is not served on the petitioner so far consequently direct the respondents to continue the petitioner in service till her superannuation in july, 2013 as per the Certificate dt 1-7-2002 produced by her and further directing the respondents to pay her salary from April, 2003 to till date.

Counsel for the Petitioner: MR.P.VENKAT RAO

Counsel for the Respondent : MR.B.NARASIMHA SARMA
FOR RMAPP.

The Court made the following :

ORDER:

The petitioner is contending that as per health certificate produced by her, she is due to retire in January 2005, whereas the respondent is not allowing her to attend duty since June 2003. The petitioner approached the Central Administrative Tribunal and it was dismissed for lack of jurisdiction. Therefore, the petitioner approached this Court through this writ petition seeking a direction to the second respondent to continue the petitioner in service till her superannuation in July, 2013. The certificates produced by the petitioner reflect different ages. The respondent is contending that as per the Seniority list dated 31-08-1998, the date of birth of the petitioner was 01.01.1943. Therefore, she is not entitled to continue in service as contended by her. A detailed probe is essential as to the correctness of the date of birth of the petitioner, since it is a question of fact to be decided by the competent Court, a writ petition under Article 226 of the Constitution of India cannot be maintained.

Accordingly, the writ petition is dismissed. However, as the Counsel for the petitioner represents that the respondents are willing to consider the health certificate produced by the petitioner, it is for the respondents to pass appropriate orders if they so desire.

26-10-2004

MRKR

To

1.The General Manager, Tele Communications, B.S.N.L.Mahaboobnagar-509050.

2.The Sub Divisional Officer (Groups) Telecom, Gadwal, Mahaboobnagar District-125.

3.The Junior Telecom Officer, IEEJA, Gadwal, Mahaboobnagar District.

4.Two C.D copies.